

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

STEPHEN KENDRICKS)
v.) 1:06-cv-159/1:06cv-268/1:01-cr-139
UNITED STATES OF AMERICA) *Chief United States District Judge Collier*
)
)

FINAL JUDGMENT ORDER

In accordance with the accompanying memorandum it is hereby **ORDERED** that the Clerk shall **CONSOLIDATE** Civil Action Number 1:06-cv-159 with Civil Action Number 1:06-cv-268 and all future filings in these actions shall be filed in Civil Action Number 1:06-cv-159. In addition, the Clerk shall serve the United States and the defendant involved in this case with copies of this order and all relevant documents.

For the reasons expressed by the Court in its memorandum opinion filed herewith, it is **ORDERED** that all claims of Stephen L. Kendricks (“Kendricks”), in his motion and amended motion under 28 U.S.C. § 2255 (Court File Nos. 1 & 4), are **DENIED AND DISMISSED WITH PREJUDICE**.

In addition, the Court has reviewed this case pursuant to Rule 24 of the Federal rules of Appellate Procedure and hereby **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, any application by Kendricks for leave to proceed *in forma pauperis* on appeal is **DENIED**. Fed. R. App. P. 24.

Further, should Kendricks file a timely notice of an appeal from this order, such notice will be treated as an application for a certificate of appealability, which is hereby **DENIED** since, he has failed to make a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Rule 22(b) of the Federal Rules of Appellate Procedure. As discussed in the memorandum opinion

filed herewith, Kendricks's claims are clearly without merit and he cannot present a question of some substance about which reasonable jurists would differ. *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000) (“To obtain a COA under § 2253(c), a habeas prisoner must make a substantial showing of the denial of a constitutional right, a demonstration that, under *Barefoot v. Estelle*, 463 U.S. 880, 894 (1983)] includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” (citation omitted)). Thus, a COA will not issue.

This is a **FINAL ORDER**. The Clerk of Court shall close the record in this case.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT
s/ Patricia L. McNutt
CLERK OF COURT